

Received

MAY 28 2009

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INITIATIVE PETITION

Gary R. Herbert
Lieutenant Governor

To the Honorable Gary Herbert, Lieutenant Governor:

We, the undersigned citizens and registered voters of the State of Utah, respectfully demand that the following law entitled “**UTAH REDISTRICTING STANDARDS COMMISSION**” be submitted to the legal voters of Utah for their approval or rejection at the regular general election to be held on November 2, 2010. Each signer says: “I have personally signed this petition; I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and my residence and post office address are written correctly after my name.”

UTAH REDISTRICTING STANDARDS COMMISSION

This bill enacts provisions in the Election Code to establish an independent redistricting commission.

Highlighted Provisions:

This bill:

- provides an intent statement;
- provides definitions;
- requires that redistricting occur only every ten years after the decennial census or in association with a change in the number of congressional, legislative, or state school board seats for a reason other than the decennial census;
- provides the standards for election districts;
- establishes an independent redistricting commission that is composed of Utah citizens;
- establishes the membership requirements and procedures for the commission;
- provides for the replacement and compensation of members;
- requires the commission to prepare a redistricting plan for presentation at public hearings and to the legislature;
- provides a uniform scoring matrix for the commission's creation and consideration when preparing a redistricting plan;
- requires the commission's final plan to be based on the scoring matrix;
- permits alternative plans submitted by citizens and commission members to be considered and scored by the commission;

requires the commission to hold public hearings on the plan approved by the commission;
provides that technical staff for the commission be provided by the Office of Legislative Research and General Counsel and permits the commission to hire its own legal counsel for legal assistance;

requires the commission to request by a supermajority vote that the plan be submitted to the legislature for the legislature's approval or rejection at a Special Session;

requires the legislature to prepare a redistricting plan pursuant to the scoring matrix, in compliance with mandatory anti-gerrymandering standards, and subject to the Open and Public Meetings Act, Title 52, Chapter 4, if the commission's plan is rejected; and

provides a severability clause.

Monies Appropriated in this Bill:

None

Other Special Clauses:

Severability Clause

Utah Code Sections Affected:

ENACTS:

20A-16-101, Utah Code Annotated 1953

20A-16-102, Utah Code Annotated 1953

20A-16-103, Utah Code Annotated 1953

20A-16-104, Utah Code Annotated 1953

20A-16-105, Utah Code Annotated 1953

20A-16-106, Utah Code Annotated 1953

20A-16-107, Utah Code Annotated 1953

20A-16-108, Utah Code Annotated 1953

20A-16-109, Utah Code Annotated 1953

20A-16-110, Utah Code Annotated 1953

20A-16-111, Utah Code Annotated 1953

Be it enacted by the People of the state of Utah:

Intent Statement.

It is the intent of the People in enacting this initiative, Utah Redistricting Standards Commission, to enact legislation that provides for uniform procedures and standards in redrawing the boundaries of legislative districts. In previous decades of redistricting, election district lines were manipulated for political advantage by incumbents, effectively undermining the ideals of a republic and

thwarting the true purpose of redistricting--to provide equal representation to each voter. In lieu of divisions made by the state legislature with its inherent conflict of interest, this politically independent commission will be required to draw political maps with accountability and transparency, thereby creating election district boundaries that comply with the United States Constitution, the Utah State Constitution, and the Voting Rights Act. Statutory provisions are herein enacted to produce maps of election districts that are reasonably equal in population and reasonably compact, contiguous, and respectful of existing city and county boundaries. The commission must consider communities of common interest and make use of natural and geographic boundaries. Additionally, the projected outcome of the commission's work will be improved voter participation and increased competitiveness in elections.

Section 1. Section **20A-16-101** is enacted to read:

CHAPTER 16. UTAH REDISTRICTING STANDARDS COMMISSION

20A-16-101. Title.

This chapter is known as the "Utah Redistricting Standards Commission."

Section 2. Section **20A-16-102** is enacted to read:

20A-16-102. Definitions.

As used in this part:

(1) "Absolute deviation" means the mathematical difference between the population of the proposed district from the ideal population.

(2) "Approved plan" means the redistricting plan approved by the commission for presentation at public hearings.

(3) "Census" means the enumeration of the population as mandated by the United States Constitution, Article I, Section 2.

(4) "Census blocks" means the smallest geographic area for which the United States Census Bureau collects and tabulates statistical data.

(5) "Commission" means the Utah Redistricting Standards Commission.

(6) "Compact" means the minimum distance between all parts of the district to the extent reasonably permitted by natural or political boundaries as derived by a mathematical formula involving the cumulative length of district boundaries.

(7) "Contiguous" means the area that is continuous, uninterrupted, and without an island or territory not included as part of the area at some point with the rest of the district. Areas which meet only at the points of adjoining corners are not contiguous.

(8) "District" means the geographic boundaries from which a political candidate is elected.

(9) “Federal decennial census” means the United States Census Bureau conducts a census of the population and housing of the United States and provides the data for the official population enumeration.

(10) “Final plan” means the redistricting plan that receives the highest score by the commission pursuant to the scoring matrix, and by resolution is requested for introduction and submission to the legislature.

(11) “Gerrymandering” means the manipulation of election district lines for political advantage.

(12) “Ideal population” means the total state population divided by the number of seats in the congressional, legislative, and school districts.

(13) “Political subdivision” means a county, city, town, or school district.

(14) “Population deviation” means the absolute deviation divided by the ideal population.

(15) “Redistricting” means the process by which the Utah Redistricting Standards Commission divides the state into districts for purposes of electing members of Congress, the state legislature, and school districts.

(16) “Redistricting plan” means the official maps of the districts which establish the legal boundaries from which a political candidate is elected.

(17) “Registered political party” means an organization of voters that:

(a) participated in the last regular general election and polled a total vote for any of its candidates for any office equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives; or

(b) has complied with the petition and organizing procedures of Title 20A, Chapter 8, Political Party Formation and Procedures.

(18) “School district” means a school district subject to the general control and supervision of the Utah State Board of Education.

(19) “Scoring matrix” means mathematical values assigned to redistricting standards to be applied to redistricting plans.

(20) “Standards” means the requirements and conditions which shall govern the redistricting procedures and redistricting plan established for the state’s congressional, legislative, and school districts.

Section 3. Section **20A-16-103** is enacted to read:

20A-16-103. Permitted Times for Redistricting.

(1) In accordance with Utah Constitution, Article IX, Section 1, no later than the annual general session next following the legislature’s receipt of the results of the enumeration made by the authority

of the United States, the legislature shall divide the state into congressional, legislative, and other districts.

(2) Redistricting may occur only at the following times:

(a) every ten years, in the year following the federal decennial census; or

(b) in association with a change in the number of congressional, state House, state Senate, or Utah State Board of Education districts that results from an event other than the federal decennial census.

Section 4. Section **20A-16-104** is enacted to read:

20A-16-104. Mandatory District Standards.

(1) The adopted redistricting plan shall comply with the mandatory anti-gerrymandering standards for districts in Utah as provided in this section.

(2) Each district shall:

(a) comply with the requirements of the United States Constitution, the Utah State Constitution, and the Voting Rights Act, 42 U.S.C. 1973, et seq.;

(b) equalize population between districts to the greatest extent practicable, using the most recent population data as reported in the federal decennial census in a manner that shall render:

(i) a population deviation in congressional districts no greater than one-half of one percent (0.5 percent) as required to comply with the standards of subsections (a) through (g); and

(ii) a population deviation in state legislative districts and school board districts no greater than four percent (4 percent) as required to comply with the standards of subsections (a) through (g);

(c) be contiguous;

(d) be reasonably compact;

(e) coincide with the boundaries of the political subdivisions of the state by using census blocks;

(i) to minimize the number of cities and counties divided among more than one district in a redistricting plan; and

(ii) to divide first the most populous political subdivision when a choice exists as to dividing political subdivisions except when a legislative district boundary drawn along a county line passes through a city that lies in more than one county;

(f) identify communities of common interest, including cultural, demographic, economic, ethnic, geographic, and trade area factors and minimize their division; and

(g) identify and utilize natural and geographic boundaries and barriers in the creation of district boundaries.

(3) The redistricting plan may not:

(a) create any district drawn to unduly favor or disfavor any particular person or registered political party;

(b) make use of addresses or political affiliations of registered voters;

(c) make use of addresses or political affiliations of incumbent legislators or members of Congress;

or

(d) identify communities of common interest based substantially upon political relationships with political parties, incumbent members of Congress, the legislature, or school districts.

Section 5. Section **20A-16-105** is enacted to read:

20A-16-105. Utah Redistricting Standards Commission – Creation – Purpose – Appointment – Requirements for Commission Members – Vacancy – Per Diem.

(1) There is created the Utah Redistricting Standards Commission to prepare a final redistricting plan to be approved or rejected by the legislature in a Special Session.

(2) (a) The commission shall:

(i) consist of eleven members, appointed as provided in Subsections (4) and (5); and

(ii) be constituted and convened in connection with each redistricting consistent with time limitations of Subsection 20A-16-103(2).

(b) In selecting the commission membership, consideration shall be given to achieve membership that is politically diverse and balanced from the various geographical areas of the state with:

(i) no more than four members from the same registered political party;

(ii) no more than three members who declare themselves to be unaffiliated with any registered political party; and

(iii) no more than four members from any one county.

(3) (a) At the time of appointment, each commission member shall:

(i) be a citizen of the United States;

(ii) be at least 25 years of age; and

(iii) be a resident of the state for three consecutive years immediately before the appointment.

(b) The following persons may not be appointed to or serve on the commission when constituted:

(i) any person who holds an elected or appointed public office;

(ii) a lobbyist as defined in Section 36-11-102; or

(iii) a principal of a lobbyist as defined in Section 36-11-102.

(4) On or before January 31 of the year following the federal decennial census or pursuant to Subsection 20A-16-103(2), the following members shall be appointed to the commission:

(a) three members shall be appointed by the president of the Utah Association of Counties, with no two members from the same registered political party or county as certified in writing by the Association;

(b) three members shall be appointed by the president of the Utah League of Cities and Towns, with no two members from the same registered political party or county as certified in writing by the League;

(c) one member shall be appointed by the chair of the Utah State Board of Education who identifies a registered political party affiliation or no affiliation as certified in writing by the chair; and

(d) four members, from a pool of qualified citizen applicants with no more than two members from the same registered political party or county, shall be appointed by the seven other commission members who were appointed pursuant to subsections (4) (a) through (c).

(5) (a) Pursuant to subsection (4) (d), any Utah citizen may submit an application to the commission for consideration for appointment. Upon the commission's screening that the citizen applicant complies with the requirements of subsection (3), the citizen shall be included in the pool of candidates.

(b) The application shall be filed:

(i) no later than 5 p.m. on the second Thursday in January of the year following the federal decennial census or at a date and time set by the lieutenant governor in compliance with Subsection 20A-16-103(2);

(ii) with a signed and written agreement to comply with Subsections (3) and (7); and

(iii) with a signed and written statement of registered political party affiliation or no affiliation.

(6) The commission members shall select one chair and one vice chair from among its members.

(7) A person who serves as a member of the commission shall agree in writing not to seek election to or hold any of the offices for which the commission establishes districts until after the completion of the election for that office following the adoption of a redistricting plan by the commission.

(8) When a vacancy occurs in the membership of the commission for any reason, the vacancy shall be filled, within 14 days of the date of the vacancy, in the same manner as the appointment of the original member.

(9) (a) The attendance of a majority of the members of the commission shall constitute a quorum for the conducting of business and the taking of official action, except:

(i) no less than six members shall create one neutral and uniform scoring matrix as required in Subsection 20A-16-106(2); and

(ii) no less than six members shall approve the redistricting plan for presentation at public hearings as required in Section 20A-16-108.

(b) The commission shall meet at least monthly or more frequently upon the request of a majority of the members of the commission.

(c) The commission shall conduct business and take official action in accordance with Robert's Rules of Order, Newly Revised Edition.

(10) (a) Members shall not receive compensation or benefits for their services, but commission members who are not government employees may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) A commission member may decline to receive per diem and expenses for service to the commission.

Section 6. Section **20A-16-106** is enacted to read:

20A-16-106. Duties of Commission – Scoring Matrix – Standards for Preparation of Redistricting Plans – Staff.

(1) The commission shall prepare a redistricting plan that divides the state into single member districts for each congressional, state House, state Senate, and Utah State Board of Education district as required by the enumeration pursuant to the federal decennial census or other change in the number of congressional or legislative seats consistent with Section 20A-16-103.

(2) (a) The commission shall create one neutral and uniform scoring matrix to be applied to each proposed plan to achieve a non-gerrymandered redistricting plan.

(b) The highest scoring plan shall be determined to be the final redistricting plan to be submitted to the legislature.

(3) In preparing a final redistricting plan as required under this chapter, the commission shall do the following:

(a) conduct all deliberations in public hearings subject to Title 52, Chapter 4, Open and Public Meetings Act;

(b) create districts of approximately equal population across the state at the commencement of the mapping process;

(c) identify and define the mandatory anti-gerrymandering standards of Subsections 20A-16-104(2) and (3);

(d) adjust the districts as necessary to comply with the mandatory anti-gerrymandering standards of Section 20A-16-104;

(e) consider any proposed redistricting plan that is submitted by any citizen or commission member provided that at least two commission members recommend that the plan be considered and scored;

(f) provide input and guidance to the technical staff or other attorney hired pursuant to subsection (4);

(g) act as a liaison to the public by providing the approved plan and conducting the public hearings required in Subsection 20A-16-108(2); and

(h) complete the redistricting procedure and recommend the final redistricting plan to the legislature.

(4) (a) The Office of Legislative Research and General Counsel shall provide the technical staff and legal assistance, computer software, and other equipment for the commission.

(b) The commission shall be permitted to hire its own legal counsel to provide legal assistance to the commission who shall serve at the pleasure of the commission.

Section 7. Section **20A-16-107** is enacted to read:

20A-16-107. Preparation and Adoption of Redistricting Plan – Alternative Redistricting Plans.

(1) The commission shall prepare and, by the affirmative vote of a majority of the members of the commission, adopt a redistricting plan within 150 days after the later of:

(a) the date that the federal decennial census data are available to the public; or

(b) the date the commission is constituted and convened.

(2) The commission may approve one plan to be presented during the public hearings.

Section 8. Section **20A-16-108** is enacted to read:

20A-16-108. Public Hearings – Timing and Locations – Public Notice.

(1) In addition to the provisions of this section, the commission is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(2) (a) Within 14 days after the date of approving a redistricting plan, the commission shall hold the first of no less than seven public hearings throughout the state as follows:

(i) one in the Bear River region -- Box Elder, Cache, or Rich County;

(ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington County;

(iii) one in the Mountain region -- Summit, Utah, or Wasatch County;

(iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;

(v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;

(vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and

(vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber County.

(b) At least two meetings must be held in a first or second class county, but not in the same county.

(c) The number and location of the public hearings shall be determined by a majority vote of the commission.

(d) Subject to Subsection (2) (e), public hearings may be held in the order and on a schedule adopted by a majority vote of the commission.

(e) The last public hearing shall be completed within 190 days after the later of:

(i) the date that the federal decennial census data are available to the public; or

(ii) the date the commission is constituted and convened.

(3) At least five calendar days before the date of each public hearing, the commission shall:

(a) provide written notice of the public hearing to the lieutenant governor for posting on the state's website; and

(b) publish written notice of the public hearing detailing its time, date, and location in at least one newspaper of general circulation in each county in the region where the public hearing will be held.

(4) During the public hearing, the commission shall either:

(a) record the public hearing, by video and audio, or by audio only, and deposit a complete copy of the recording with the Division of Archives and Records Services within seven days of the date of the meeting; or

(b) take comprehensive minutes of the public hearing, detailing the names and titles of each speaker and summarizing each speaker's comments.

(5) During each public hearing, the commission shall accept written and verbal comments from the public for review and consideration.

(6) The Division of Archives and Records Services shall make copies of the written comments and the recordings or minutes available to the public.

(7) The public hearings required in this section may be held by the commission with less than a quorum present provided that at least three members are present.

Section 9. Section **20A-16-109** is enacted to read:

20A-16-109. Final Redistricting Plan – Resolution for Submission to the Legislature.

(1) (a) After completion of the public hearings, the commission shall prepare and adopt a final redistricting plan.

(b) In preparing the final redistricting plan, the commission shall review the written comments and the records or minutes of the public hearings.

(2) Adoption of the final redistricting plan occurs when:

(i) the highest scoring plan has been identified; and

(ii) eight members affirmatively vote to cease deliberations.

(3) Within seven days after adoption of the final redistricting plan and by the affirmative vote of eight members of the commission, the commission shall adopt a resolution that:

(a) states that a final redistricting plan has been adopted by the commission;

(b) requests that the final redistricting plan be introduced and submitted to the legislature for legislative action in a Special Session pursuant to the governor's proclamation no later than 30 days after adoption of the resolution; and

(c) recommends a member of each house of the legislature as the commission's preferred sponsor of the legislation to submit the final redistricting plan to the legislature.

Section 10. Section **20A-16-110** is enacted to read:

20A-16-110. Legislative Action.

(1) In accordance with Article IX, Section 1 of the Utah Constitution, the legislature may reject or enact the redistricting plan without change or amendment as prepared by the redistricting commission by a majority vote to reject in either House or a majority vote to enact in both Houses.

(2) In accordance with Article VI, Section 1 of the Utah Constitution and Section 20A-7-208, the legislative staff may make technical corrections only as authorized by Section 36-12-12 and prepare a legislative review note and legislative fiscal note on the redistricting plan.

(3) If the commission's final redistricting plan is rejected, the legislature shall:

(a) prepare a redistricting plan pursuant to the scoring matrix of Section 20A-16-106;

(b) adopt a redistricting plan in compliance with Subsection 20A-16-104; and

(c) comply with the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

Section 11. Section **20A-16-111** is enacted to read:

20A-16-111. Severability.

If any word, phrase, sentence, or section of this chapter or its application to any person or circumstance is determined to be invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Section 12. **Effective Date.**

If approved by the voters of the state, this initiative shall take effect on November 2, 2010.

I, Gary Herbert, Lieutenant Governor of the State of Utah, hereby certify that the initiative entitled "**UTAH REDISTRICTING STANDARDS COMMISSION**" contained in this petition section is a full, true, and correct copy of that initiative as proposed by the sponsors for referral to the people of the State of Utah for their approval as law or rejection.

Dated this _____ day of _____, 2009.

Gary Herbert
Lieutenant Governor